

MINUTES

WARRICK COUNTY AREA PLAN COMMISSION

Regular meeting to be held in Commissioners Meeting Room,
Third Floor, Historic Court House,
Boonville, IN
Monday, February 12, 2018, 6:00 PM

PLEDGE OF ALLEGIANCE: A moment of silence was held followed by the Pledge of Allegiance.

MEMBERS PRESENT: Guy Gentry, President; Bill Byers, David Hachmeister, Bob Johnson, Amanda Mosiman, Doris Horn, and Jeff Willis.

Also present were Morrie Doll, Attorney, Sherri Rector, Executive Director, Molly Barnhill, and Kim Kaiser staff.

MINUTES: Upon a motion by Doris Horn and seconded by Bill Byers the Minutes from the regular meeting held January 8, 2018 were approved as circulated.

REZONING PETITIONS:

PC-R-18-02 - Petition of Cleo Holder OWNER: A. Joseph & Charlene Salpietra To rezone Lot 1 of the Amended Plat of Gardner Subdivision located on the N side of Ruffian Lane 0' NE of the intersection formed by Ruffian Lane and Frame Rd. from "R-O" Residential Office to "C-1" Neighborhood Commercial. *Ohio Twp. 8988 Ruffian Ln. (Advertised in The Standard February 1, 2018.)*

Cleo Holder, Joseph Salpietra, and Bret Sermersheim were present.

The President called for a staff report.

Mrs. Rector stated we have all of the return receipts from the certified mailing to the adjacent property owners. She said there is no minimum lot size and the Comprehensive Plan projects the land to be commercial. She said the property to the east is zoned "C-1" Neighborhood Commercial with a commercial business. She said the property to the south is zoned "R-2" Multi Family with a nursing home. She said the property to the west is zoned "R-1D" One Family Dwelling being Woodstone Manor Subdivision. She added the properties across SR 66 and being to the north are zoned "C-4" General Commercial. She stated there is a Letter of Map Amendment on this lot that removes it from the flood plain. She stated they have access from Ruffian Ln. She stated the use of the property is commercial which would be allowed. She stated when this building was built this type of business fell under an "R-0" in our zoning. She said a couple of years ago we changed that with all of the multiple medical buildings coming in we took it out of the residential area and put it in a "C-1" zoning. She said it is legal non-

conforming at this time and they want to bring the current use into compliance with our ordinance zoning today.

Ascertaining there are no remonstrator or questions from the Board the President called for a motion.

David Hachmeister made a motion for a positive recommendation to the County Commissioners for PC-R-18-02. The motion was seconded by Doris Horn and unanimously carried.

The President stated this is a recommendation to the County Commissioners who will make the final ruling at their meeting on March 12, 2018 at 4:00 p.m.

OTHER BUSINESS:

Sidewalk modification request in Olde Piper Glen Subdivision OWNER: Danny Ubelhor

Jim Morley Jr., with Morley, explained this is a small completed subdivision that accesses off Oak Grove Rd. He said what we are asking for is to waive the sidewalk on the last lot. He stated this subdivision sits across the street from a large apartment complex and there have already been a lot of people walking down this subdivision street. He said their desire is to cut the sidewalk short to keep the public from getting too close to the lake area and to try to persuade people from crossing private property and fishing and playing in the lake. He said in addition it ends in the lot Danny Ubelhor is building his personal home on. He said it is approximately a two and one half acre lot and we don't normally do sidewalks on lots that large. He added the sidewalk does end at his property line so he would be able to access it without crossing someone else's property. He stated even from the beginning the sidewalk was a dead end, you walked down then turned around and walked back, so we are asking to cut it 100 feet shorter than what it was.

Mrs. Rector added the County Engineer has no objection to cutting the sidewalk shorter. She said Morley's needs to give them new drawings and plans but it doesn't have to go back to the Commissioner's; it only has to be approved by this Board.

The President stated we did give the waiver to only put sidewalks on the one side because there are only lots on the one side of the road. He said he has no issues with doing this since it will abut the property and they will have access to the sidewalk.

Ascertaining there were no other comments or questions from the Board the President called for a motion.

Bill Byers made a motion to approve the sidewalk modification in Olde Piper Glen Subdivision. The motion was seconded by Jeff Willis and unanimously carried.

ATTORNEY BUSINESS:

CAUSE NO. 87-D01-1204-PL-000494

Attorney Doll stated the Area Plan Commission has been added to an old lawsuit from 2012. He said there was a property dispute between some parties, subsequently one party passed away and another group of parties bought an interest into the land. He stated they went through a lawsuit and reached a settlement to enter an order dividing, it is almost like a lot line adjustment it is a very small change, and thereafter the parties didn't like each other very much. He said Mrs. Cox has refused to sign the documents to record the Minor Subdivision with our office which our ordinance requires the property owners must sign the plat. He said he spoke with Tom Norton, who is the lawyer involved, he has named us in the original suit simply for the judge to have due process over us so he can issue an order that states for Warrick County Area Plan Commission to accept this plat per to the order of this court. He stated then we won't have to have the signatures of the lady who is unwilling to cooperate. He stated this is the first time he has seen this but Mrs. Rector said she had seen it before. He said he thinks this is a good opportunity to discuss amending our ordinance recommending to the Commissioners an amendment to our ordinance that states "plats shall be signed by the property owners on major and minor subs or a court order waiving requirement will suffice." He said in the future this will keep us from ever having to go through this again. He stated they will be going to court on Thursday at 10:30 and have the Judge tell them to accept the plat.

The President said no motion or anything needed on that other than a discussion and maybe a motion or suggestion to revisit the ordinance.

Attorney Doll replied he agrees.

Jeff Willis asked if we would run into the Judge dividing something that wouldn't fit other parts of our ordinance.

Attorney Doll replied it would only be involving a platted subdivision and the modification would only deal with the recording or acceptance of the plat. He stated it really wouldn't deal with other parts of our ordinance only the platting parts of it.

Jeff Willis stated what if he divided it and said one property was going to have a 20 foot backyard and the other property would have a 30 foot backyard but it doesn't fit our ordinance.

Attorney Doll replied he really doesn't want it to go beyond the recording of the plat providing the plat is in compliance with all other terms and specifications of our ordinance.

Mrs. Rector replied it needs to state that.

Attorney Doll stated that way we have it covered. He said it isn't the way he divided this that is going to be a problem for compliance with our ordinance; it is just that the one party refuses to sign the plat.

Jeff Willis said he understands in this case or most cases wouldn't be a problem but in some cases it would be.

Mrs. Rector replied she has a case right now where it doesn't meet our ordinance and it was court ordered.

Attorney Doll stated we can say in order for us to accept the court order it has to be in compliance to our specifications and terms of our ordinance.

Mrs. Rector stated she would write something up and bring it back next month.

The President stated that sounds good and there are no motion needed for that.

EXECUTIVE DIRECTOR BUSINESS:

Discussion: Deemer & Johnston property (*continued from August 14, 2017, November 13, 2017 and*).

Mrs. Rector stated the Deemer & Johnston property is where Cabinets & Counters is. She said this is where they didn't divide the property correctly. She stated Mr. Deemer came in for a site review and we never heard from them again. She said Mrs. Johnston called her the other day and she had just received the letter that Attorney Doll had sent. She said the Johnston's now live in Florida and Mr. Johnston has had a stroke. She said Mrs. Johnston is trying to take care of all of their business. She said Mrs. Johnston is going to be back in town in April and promised her that she would call and come in for a site review. She stated she needs this to be tabled until May to give her time to meet with Mrs. Johnston. She said they can't get any permits so it isn't hurting anyone but them.

Amanda Mosiman made a motion to table the Deemer & Johnston issue until May. Doris Horn seconded the motion and it unanimously carried.

Discussion: Primary Plat approvals with conditions (*continued from October 10, 2017, November 13, 2017 & December 11, 2017*).

Mrs. Rector said we discussed primary plat approvals with conditions but her and Attorney Doll still haven't met on this and wants to know if it can be taken off of the agenda until they can get together and discuss it.

Attorney Doll said we have looked at Allen County's ordinance but beyond that haven't decided whether they like it or not.

Jeff Willis said as he was driving here tonight he noticed that a wood fence had been placed around the new subdivision of Berkshire. He said there is a lot of material in that job. He stated the fence will all age at the same rate and at the same time, with it being pine, it will twist and bow and the whole street will look bad instead of beautiful.

Mrs. Rector stated she hasn't seen it since they put the fence up.

Jeff Willis stated it is a lot of fence, they went all of the way from the west corner on Oak Grove Rd. all of the way down to the park. He said they put a lot of time and effort and wood into it.

Mrs. Rector said those houses are selling for around \$400,000.00 that is being built in there. He said that some of those homeowners are going to want ornamental fencing and then you will have a wood fence down the back of the subdivision.

Mrs. Rector asked if they wanted to put a time period to put it back on the agenda to discuss it, or let it drop, or what do you want us to do.

Attorney Doll said this whole thing began with a discussion about the subdivisions and the vicinity to the park if he recollects correctly.

Mrs. Rector said no, it started with a couple of the Commissioners asking if we could place conditions on the plats along certain county roads. She asked Commission Johnson if they were still interested in discussing different conditions.

Commissioner Johnson shook his head yes.

Attorney Doll said let's put it back on the agenda. He asked if they wanted it on March's agenda. He said we will bring you proposals. He said he has copies of the Allen County ordinance. He said we need some criteria for the imposition of conditions and he has looked around some and came to the conclusion that Allen County, Ft. Wayne Area Plan Commission has common sense conditions. He stated he is more worried about the criteria.

The President asked if they wanted to do it in March.

Mrs. Rector asked for more time. She said we still have to do the flood plain ordinance. The President said we can bring it back in May if that would give them enough time.

Attorney Doll stated a motion to table would be in order.

Amanda Mosiman made a motion to table approval of primary plats with conditions on until the May meeting.

The motion was seconded by Doris Horn and unanimously carried.

Mrs. Rector asked if they remembered her bringing to them a couple of months ago about Indiana American Water not issuing letters for water lines and we said we would put the sticker on the plat. She stated to get an Improvement Location Permit we require either a sewer permit or a septic permit and water permit to insure they have water and waste disposal before issuing an Improvement Location Permit. She said all of the other water companies you go to them and you get your water permit but Indiana American you have to file on line and then mail the check to them and then they issue the permit. She said she didn't know how long it took for them to issue the permits after the check is received. She stated the gentleman who gets the permits for Jagoe Homes Inc. stated they are upset because it takes so long for them to get their water permits. She told them to apply for the permit from Indiana American two weeks before they plan on getting the Improvement Location Permit. She said she told him there wasn't anything she could do about it because she couldn't let them get permits without the Indiana American water permit but require them from all of the other companies for everyone else but she said she would mention it to the Board. She said she doesn't know why Indiana American won't issue permits at their Newburgh office because they do have a Newburgh office but apparently they are run out of someplace else.

Commissioner Johnson asked if he could get a name and he will talk to them.

Mrs. Rector replied he already knows but it is Daniel. She said she doesn't know his last name.

Kim Kaiser stated it is Daniel Crews.

Mrs. Rector stated a lot of builders are building a home and then they are going to sell it. She stated Jagoe doesn't want to apply for the water permit until that lot and house are sold. She said they don't want to put their own money into getting the water permit they want to wait until they have the money from the bank in hand. She said she doesn't think this is our problem.

Attorney Doll asked if they are the only builder complaining.

Mrs. Rector replied yes.

Attorney Doll asked if a lot of people were building in Indiana American Water's district.

Mrs. Rector replied yes. She said just like Walt VanZilen has the subdivision on Lincoln Ave. and he said he didn't care he would just by the water permits for every lot then when come in to build we will have them. She said yes, they are the only ones and it is because of the way they sell their homes.

Jeff Willis stated when he was talking about the pine fence he didn't want the record to reflect that he didn't want people to think that he thought the fence on Oak Grove was going to look bad.

Attorney Doll stated so you don't want to be on the record as anti-pine.

Jeff Willis said he doesn't want it to be on the record saying well he knew it was going to look bad in ten years why did he let them build that fence.

Attorney Doll stated it is going to age at the same rate.

Mrs. Rector stated we don't issue permits for fences anymore.

Jeff Willis stated when he was talking about the pine fence aging he hoped he didn't imply that it was going to look bad.

Mrs. Rector stated that it won't look like it looks today.

Jeff Willis agreed it won't look like it does today.

Upon a motion by Bob Johnson, seconded by Amanda Mosiman and unanimously carried the meeting adjourned at 6:25.

Guy Gentry, President

ATTEST:

Sherri Rector, Executive Director